

mounted within post 121. A fragment of tape 134 is shown extending from the cassette in post 121 toward another post (not shown). Also, a fragment of a tape 135 is shown, this tape extending from the cassette of a previous post (not shown) in the series of posts, the pull 136 at the end of tape 135 securing the tape to post 120.

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In the claims, rewrite claims 1, 2, 5, 7, and 8 as set forth on the accompanying sheets, each claim being set forth in clean and marked up versions.

REMARKS

A terminal disclaimer was submitted with the amendment filed April 10, 2003.

The abstract has been amended as suggested by the Examiner. Specifically, everything after the first four sentences of the original abstract has been deleted, and a new fifth sentence has been added.

The specification has been amended to add the priority information to page 1 and correct certain typographical errors on page 15.

Claims 1, 5, and 8 have been amended as suggested by the Examiner in sections 4(a), (c), and (d) of the office action. The amendment suggested by the Examiner in Section 4(b) of the office action has not been made, since it is believed that dependent claims beginning with "A" rather than with "The" is acceptable

claim drafting form. The Examiner's attention is directed to the claims of applicant's Patent No. 6,375,164, of which the present application is a continuation-in-part, as well as the primary reference cited by the Examiner, namely, the Oster patent.

Concerning the rejection of claims 2-6 on the basis of 35 USC 112, claim 2 has been amended to meet the rejection raised in Section 6(a) of the office action.

With reference to Section 6(b), the "means for supporting the cassette" in Claim 4 is different from the "means for holding the cassette" in Claim 1. Claim 5, dependent upon Claim 4, sets forth an example of the "means for supporting the cassette" as being a tube (50) within the post. On the other hand, an illustrative "means for holding the cassette" is described in the specification, page 13, lines 10-14.

Claims 1, 2, 4, 5, 7, and 8 have been rejected under 35 USC 102 on the basis of the cited Oster patent. In making this rejection, the Examiner is believed to be mistaken.

Oster shows a conventional pedestrian traffic control device comprising a hollow post 22 surmounted by a tape cassette 10. This is comparable to the hollow post 20 shown in Fig. 1 of the present application containing a cassette 23 at its upper end. There is not the slightest suggestion in Oster to locate a tape cassette within hollow post 22 at a point spaced from both the upper end and the lower end of the post.

The Examiner has attempted to overcome this obvious deficiency of Oster as a reference by considering Oster post 22 and cassette housing 12 as a "one piece post". This basis for rejection is flawed because post 22 and housing 12 are obviously two separate pieces, and not one piece.

Furthermore, Oster cannot simply be reconstructed to make post 22 and housing 12 as one piece. This is not Oster's intention, since his invention relates to interconnecting means 36 for joining a cassette 10 to a hollow post 22 or a solid post 22a. Moreover, housing 12 of cassette 10 cannot possibly be considered a part of post 22, because without housing 12, cassette 10 is no longer a viable unit. Specifically, housing 12 serves as a support for top cap 14 and base member 32, between which spool 30 is rotatably mounted. If housing 12 is separated from the remainder of the cassette, so as to become a permanent part of post 22, there is nothing left to hold top cap 14, base 32, and spool 30 together as a unit.

In contrast to the arrangement of Oster, the present invention, as shown in Fig. 15, involves a tape cassette located within a hollow post 120 at a point spaced from both the upper end and lower end of the post. More specifically, the present specification refers to post 120 as not being less than thirty inches tall (page 1, lines 18-19) and possibly as being about 36 inches high (page 15, line 6). Also, the bottom of tape 132 is

described as being located less than 27 inches from the floor (page 16, lines 2-3). Thus, the lower edge of the tape is located at least several inches (in the case of a thirty inch post) from the upper end of the post. This location is significantly different from the typical arrangement, such as shown by Oster, wherein the tape extending from the cassette is located around the top of the post.

Claim 1 has been amended to bring out the difference in structure, described above, between the present invention and the Oster device. Claim 1 calls for a hollow, upright, one piece, post containing a tape cassette, the tape being extendible through a slot in the post, "the lower edge of the tape, when extended, being spaced from the upper end of the post at least several inches". Thus, the tape of the present invention is significantly spaced from the upper end of the post, unlike Oster, wherein the tape is located at about the upper end of the post.

This is an important distinction for the reason set forth on the first page of the present specification. Whereas the Americans With Disability Act requires the tape to be less than 27 inches from the floor, it is undesirable to make the posts this short, since at that height they are less noticeable by the general public, and hence are not as effective as a visual barrier. In addition, since signs are often mounted on top of at least some of the posts, it is important for the posts to be tall enough so that the signs they carry are readily observed without the need to crouch.

Claims 2-6 are all dependent upon claim 1, and therefore distinguish from Oster for the reasons set forth above.

Claims 3 and 6 were rejected under 35 USC 103 as unpatentable over Oster. With respect to claim 3, the Examiner states that it would be obvious "to move the cassette of Oster from the upper end of the post to another position wherein the lower edge of the tape is less than 27 inches above the floor". In this, the Examiner is mistaken.

There is no suggestion in Oster that the cassette be moved to a position spaced beneath the upper edge of post 22. Furthermore, such a rearrangement of Oster is not even possible. Since the diameters of base member 32 and top cap 14 of Oster are larger than the internal diameter of post 22, these parts will not fit within post 22. Moreover, such a suggestion for reconstructing Oster would violate the entire point of Oster's invention. Oster's intent is to provide an adaptor 36 making it possible to secure a tape cassette to the top of either a solid post 22a having a threaded stud projecting from its upper end, or a hollow post 22 into which the adaptor can be fit. To place Oster's cassette inside post 22, at a point between its ends, even if possible to do, would make the adapter 36 of Oster useless.

Claim 7 calls for a hollow post having a slot between the post ends, "the lower edge of the slot being spaced from the upper end of the post at least several inches". Since, as set forth above,

Oster does not suggest a slot in the post at a location as now described in claim 7, and cannot insert his cassette into the post to a point between the ends of the post, claim 7 patentably distinguishes from Oster.

Claim 8 is dependent upon claim 7 and therefore distinguishes from Oster for the reasons set forth above.

The Examiner has pointed out that this application names joint inventors. The invention covered by all the claims of this application was commonly owned at the time the invention was made. Moreover, the invention covered by the claims of this application is commonly owned with the invention claimed in the parent application, now Patent No. 6,375,164.

In response to the Examiner's "double patenting" rejection, accompanying this amendment is a terminal disclaimer. Please charge the \$55.00 terminal disclaimer fee to Deposit Account No. 06-0735.

The patents cited, but not applied by the Examiner have been considered, but none comes any closer than Oster to the subject matter of the claims in this application.

In view of the comments set forth above, all the claims now in this application are believed to be allowable, and favorable action is solicited.

Respectfully,

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212-239-4162

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**PEDESTRIAN TRAFFIC CONTROL DEVICE
HAVING TAPE BELOW TOP OF POST**

Abstract of the Disclosure

An ADA-compliant pedestrian traffic control device including a hollow, one piece post having an open upper end, and at least one slot in the post below the top of the post. A cassette is mounted within the post at the level of the slot. The cassette contains a tape wound on a spool, the spool being spring-biased to rotate in a direction which winds the tape on to the spool. The tape is extendable from the cassette in a direction generally perpendicular to the vertical axis of the post, the tape extending through the slot in the post. The lower edge of the tape, when extended, is less than twenty-seven inches from the floor. ~~The diameter of the cassette, along its entire axial length, is smaller than the internal diameter of the post, so that the cassette can be inserted into the open upper end of the post and moved to its location between the ends of the post. The cassette is furnished with means for maintaining tension in the retractor spring prior to and during insertion of the cassette into the post, the tension maintaining means being positioned substantially within the confines of the outer dimension of the cassette, so as not to interfere with insertion of the cassette into the post. After the free end of the tape of the cassette is manipulated outwardly through the slot in the post, a pull is attached to the free end of the tape, the pull being too large to fit through the slot and hence preventing full retraction of the tape into the cassette.~~

A pedestrian traffic control device which complies with the Americans with Disability Act is illustrated in Fig. 15. In this embodiment, two spaced-apart upright posts 120 and 121 are mounted on support bases 122. The posts are comparable to posts 20 and 21 described above, although they may be slightly shorter, say, thirty-six inches high. The posts are initially open at their upper ends, but in use are closed by caps 123 and 124 and do not accommodate cassettes similar to cassettes 23 and 24 within their upper ~~upper~~ ends.

A cassette (not shown), corresponding in all respects to cassette 53 described above, is carried within each post 120 and 121, each cassette being located below the top of its respective ~~perspective~~ post.

At this point, each post is provided with a slot, and tape 132 is shown extending from the cassette in post 120 to post 121. ~~A At~~ ~~this point,~~ a pull 133 carried by the free end of tape 132 is used to secure the free end of the tape to the bracket of a cassette (not shown) mounted within post 121. A fragment of tape 134 is shown extending from the cassette in post 121 toward another post (not shown). Also, a fragment of a tape 135 is shown, this tape extending from the cassette of a previous post (not shown) in the series of posts, the pull 136 at the end of tape 135 securing the tape to post 120.

1. (amended) A pedestrian traffic control device, comprising:
a hollow, upright, one piece, post having an open upper
end and a lower end,

at least one slot in the post between its ends, the slot
being spaced from both ends of the post,

a cassette located within the post and between its ends,
the cassette incorporating a tape wound on a spool, the tape being
extendible from the cassette, through the slot in the post, in a
direction generally perpendicular to the axis of the post, the
lower edge of the tape, when extended, being spaced from the upper
end of the post at least several inches, and

means for holding the cassette within the post.

2. (amended) A pedestrian traffic control device as defined in claim 1, wherein the post and cassette are both generally circular in cross-section, and the outer diameter of the cassette, along its entire axial length, is smaller than the internal diameter of the post, so that the cassette can be inserted into the open upper end of the post and moved to its location between the ends of the post.

5. (amended) A pedestrian traffic control device as defined in claim 4 wherein the support means includes a tube within the post having an upper end in the region of the lower end of the slot in the post, the cassette being seated upon the upper end of the tube.

7. (amended) A method of assembling a pedestrian traffic control device, the device including a hollow post having an open upper end and a slot between and spaced from the post ends, the lower edge of the slot being spaced from the upper end of the post at least several inches, and a cassette incorporating a spool on which a tape is completely wound, the free end of the tape being exposed, the method including the steps of:

inserting the cassette into the open end of the post,
maneuvering the cassette along the length of the post until the free end of the tape is accessible through the slot in the post,

pulling the free end of the tape through the slot, and
attaching a finger pull to the free end of the tape exposed outside the post, the pull being sized large enough so that the free end of the tape, with pull attached, cannot be retracted into the post through the slot.

8. (amended) A method as defined in claim 7 wherein the tape-carrying spool is spring biased ~~based~~ in a direction tending to wind the tape on the spool, so that pulling the free end of the tape through the post slot adds tension to the spring.

1. (amended) A pedestrian traffic control device, comprising:
a hollow, upright, one piece, post having an open upper
end and a lower end,

at least one slot in the post between its ends, the slot
being spaced from both ends of the post,

a cassette located within the post and between its ends,
the cassette incorporating a tape wound on a spool, the tape being
extendible from the cassette, through the slot in the post, in a
direction generally perpendicular to the axis of the post, the
lower edge of the tape, when extended, being spaced from the upper
end of the post at least several inches, and

means for holding the cassette within the post.

2. (amended) A pedestrian traffic control device as defined in claim 1, wherein the post and cassette are both generally circular in cross-section, and the outer diameter of the cassette, along its entire axial length, is smaller than the internal diameter of the post, so that the cassette can be inserted into the open upper end of the post and moved to its location between the ends of the post.

5. (amended) A pedestrian traffic control device as defined in claim 4 wherein the support means includes a tube within the post having an upper end in the region of the lower end of the slot in the post; the cassette being seated upon the upper end of the tube.

7. (amended) A method of assembling a pedestrian traffic control device, the device including a hollow post having an open upper end and a slot between and spaced from the post ends, the lower edge of the slot being spaced from the upper end of the post at least several inches, and a cassette incorporating a spool on which a tape is completely wound, the free end of the tape being exposed, the method including the steps of:

inserting the cassette into the open end of the post,

B7 maneuvering the cassette along the length of the post until the free end of the tape is accessible through the slot in the post,

pulling the free end of the tape through the slot, and

attaching a finger pull to the free end of the tape exposed outside the post, the pull being sized large enough so that the free end of the tape, with pull attached, cannot be retracted into the post through the slot.

8. (amended) A method as defined in claim 7 wherein the tape-carrying spool is spring biased in a direction tending to wind the tape on the spool, so that pulling the free end of the tape through the post slot adds tension to the spring.